

Introduced by Senator McPherson

February 21, 2003

An act to amend Section 35160.5 and 49558 of the Education Code, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

SB 722, as amended, McPherson. Education: administration.

(1) Existing law requires, as a condition for the receipt of school apportionments from the ~~state school fund~~ *State School Fund*, that the governing board of a school district adopt rules and regulations establishing a policy of open enrollment within the district for residents of the district. Existing law requires a school that receives requests for admission in excess of the capacity of the school to use a selection policy that ensures that selection of pupils to enroll in the school is made through a random, unbiased process, with certain exceptions.

This bill would require the policy to provide a priority for admission to the lowest performing children from low-income families who attend a school identified for school improvement pursuant to specified federal laws. By placing additional duties on the governing board of a school district, this bill would impose a state-mandated local program.

(2) Existing law requires that all applications and records kept by a public officer or agency in connection with the administration of free or reduced price meal programs be kept confidential, with certain exceptions.

This bill would permit a public officer or agency to authorize the use of those records for the purpose of determining ~~the eligibility of a pupil~~ *those schools with a concentration of pupils who are eligible to*

participate in a state or federal education program based on family wealth or income.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 35160.5 of the Education Code is
2 amended to read:

3 35160.5. (a) The governing board of each school district that
4 maintains one or more schools containing any of grades 7 to 12,
5 inclusive, shall, as a condition for the receipt of an inflation
6 adjustment pursuant to Section 42238.1, establish a school district
7 policy regarding participation in extracurricular and cocurricular
8 activities by pupils in grades 7 to 12, inclusive. The criteria, which
9 shall be applied to extracurricular and cocurricular activities, shall
10 ensure that pupil participation is conditioned upon satisfactory
11 educational progress in the previous grading period.

12 (1) For purposes of this subdivision, “extracurricular activity”
13 means a program that has all of the following characteristics:

14 (A) The program is supervised or financed by the school
15 district.

16 (B) Pupils participating in the program represent the school
17 district.

18 (C) Pupils exercise some degree of freedom in either the
19 selection, planning, or control of the program.

20 (D) The program includes both preparation for performance
21 and performance before an audience or spectators.



(2) For purposes of this subdivision, an “extracurricular activity” is not part of the regular school curriculum, is not graded, does not offer credit, and does not take place during classroom time.

(3) For purposes of this subdivision, a “cocurricular activity” is defined as a program that may be associated with the curriculum in a regular classroom.

(4) Any teacher graded or required program or activity for a course that satisfies the entrance requirements for admission to the California State University or the University of California is not an extracurricular or cocurricular activity as defined by this section.

(5) For purposes of this subdivision, “satisfactory educational progress” shall include, but not be limited to, the following:

(A) Maintenance of minimum passing grades, which is defined as at least a 2.0 grade point average in all enrolled courses on a 4.0 scale.

(B) Maintenance of minimum progress toward meeting the high school graduation requirements prescribed by the governing board.

(6) For purposes of this subdivision, “previous grading period” does not include any grading period in which the pupil was not in attendance for all, or a majority of, the grading period due to absences excused by the school for reasons including, but not limited to, serious illness or injury, approved travel, or work. In that event, “previous grading period” is deemed to mean the grading period immediately prior to the grading period or periods excluded pursuant to this paragraph.

(7) A program that has, as its primary goal, the improvement of academic or educational achievements of pupils is not an extracurricular or cocurricular activity as defined by this section.

(8) The governing board of each school district may adopt, as part of its policy established pursuant to this subdivision, provisions that would allow a pupil who does not achieve satisfactory educational progress, as defined in paragraph (4), in the previous grading period to remain eligible to participate in extracurricular and cocurricular activities during a probationary period. The probationary period may not exceed one semester in length, but may be for a shorter period of time, as determined by the governing board of the school district. A pupil who does not

1 achieve satisfactory educational progress, as defined in paragraph
2 (4), during the probationary period may not be allowed to
3 participate in extracurricular and cocurricular activities in the
4 subsequent grading period.

5 (9) This subdivision does not preclude the governing board of
6 a school district from imposing a more stringent academic
7 standard than that imposed by this subdivision. If the governing
8 board of a school district imposes a more stringent academic
9 standard, the governing board shall establish the criteria for
10 participation in extracurricular and cocurricular activities at a
11 meeting open to the public pursuant to Section 35145.

12 The governing board of each school district shall annually
13 review the school district policies adopted pursuant to the
14 requirements of this section.

15 (b) (1) On or before July 1, 1994, the governing board of each
16 school district shall, as a condition for the receipt of school
17 apportionments from the State School Fund, adopt rules and
18 regulations establishing a policy of open enrollment within the
19 district for residents of the district. This requirement does not
20 apply to a school district that has only one school or a school
21 district with schools that do not serve any of the same grade levels.

22 (2) The policy shall include all of the following elements:

23 (A) It shall provide that the parent or guardian of each
24 schoolage child who is a resident in the district may select the
25 schools the child shall attend, irrespective of the particular location
26 of his or her residence within the district, except that school
27 districts shall retain the authority to maintain appropriate racial
28 and ethnic balances among their respective schools at the school
29 districts' discretion or as specified in applicable court-ordered or
30 voluntary desegregation plans.

31 (B) It shall include a selection policy for a school that receives
32 requests for admission in excess of the capacity of the school that
33 ensures that selection of pupils to enroll in the school is made
34 through a random, unbiased process that prohibits an evaluation of
35 whether a pupil should be enrolled based upon his or her academic
36 or athletic performance. For purposes of this subdivision, the
37 governing board of the school district shall determine the capacity
38 of the schools in its district. However, school districts may employ
39 existing entrance criteria for specialized schools or programs if the
40 criteria are uniformly applied to all applicants. This subdivision

1 does not prohibit school districts from using academic
2 performance to determine eligibility for, or placement in,
3 programs for gifted and talented pupils established pursuant to
4 Chapter 8 (commencing with Section 52200) of Part 28.

5 (C) It shall provide that no pupil who currently resides in the
6 attendance area of a school shall be displaced by pupils
7 transferring from outside the attendance area.

8 (3) Notwithstanding the requirement of subparagraph (B) of
9 paragraph (2) that the policy include a selection policy for a school
10 that receives requests for admission in excess of the capacity of the
11 school that ensures that the selection is made through a random,
12 unbiased process, the policy may include any of the following
13 elements:

14 (A) It may provide that special circumstances exist that might
15 be harmful or dangerous to a particular pupil in the current
16 attendance area of the pupil, including, but not limited to, threats
17 of bodily harm or threats to the emotional stability of the pupil, that
18 serve as a basis for granting a priority of attendance outside the
19 current attendance area of the pupil. A finding of harmful or
20 dangerous special circumstances shall be based upon either of the
21 following:

22 (i) A written statement from a representative of the appropriate
23 state or local agency, including, but not limited to, a law
24 enforcement official or a social worker, or properly licensed or
25 registered professionals, including, but not limited to,
26 psychiatrists, psychologists, or marriage and family therapists.

27 (ii) A court order, including a temporary restraining order and
28 injunction, issued by a judge.

29 A finding of harmful or dangerous special circumstances
30 pursuant to this subparagraph may be used by a school district to
31 approve transfers within the district to schools that have been
32 deemed by the school district to be at capacity and otherwise
33 closed to transfers that are not based on harmful or dangerous
34 special circumstances.

35 (B) It may provide that a pupil attending a school prior to July
36 1, 1994, may be considered a current resident of that school for
37 purposes of this section until the pupil is promoted or graduates
38 from that school.

39 (C) It may provide that no pupil who was on a waiting list for
40 a school or specialized program, on or before July 1, 1994,

1 pursuant to a then-existing district policy on transfers within the
2 district, shall be displaced by pupils transferring after July 1, 1994,
3 from outside the attendance area, as long as the continued
4 maintenance on a waiting list remains consistent with the former
5 policy.

6 (D) It may provide that schools receiving requests for
7 admission shall give priority for attendance to siblings of pupils
8 already in attendance in that school and to pupils whose parent or
9 legal guardian is assigned to that school as his or her primary place
10 of employment.

11 (E) It may include a process by which the school district
12 informs parents or guardians that certain schools or grade levels
13 within a school are currently, or are likely to be, at capacity and,
14 therefore, those schools or grade levels are unable to accommodate
15 any new pupils under the open enrollment policy.

16 (4) Notwithstanding the requirement of subparagraph (B) of
17 paragraph (2) that a school that receives requests for admission in
18 excess of the capacity of the school to use a selection policy that
19 ensures that the selection is made through a random, unbiased
20 process, priority shall be given to the lowest achieving children
21 from low-income families, attending a school identified for school
22 improvement pursuant to subsection (b) of Section 6316 of Title
23 20 of the United States Code.

24 (5) It is the intent of the Legislature that, upon the request of the
25 pupil's parent or guardian and demonstration of financial need,
26 each school district provide transportation assistance to the pupil
27 to the extent that the district otherwise provides transportation
28 assistance to pupils.

29 SEC. 2. Section 49558 of the Education Code is amended to
30 read:

31 49558. (a) All applications and records concerning any
32 individual made or kept by a public officer or agency in connection
33 with the administration of any provision of this code relating to
34 free or reduced price meal eligibility is confidential, and may not
35 be open to examination for any purpose not directly connected
36 with the administration of a free or reduced price meal program,
37 or any investigation, prosecution, or criminal or civil proceeding
38 conducted in connection with the administration of a free or
39 reduced price meal program.

(b) Notwithstanding subdivision (a), a public officer or agency may permit the use by school district employees, who are authorized by the governing board of the school district, of individual records pertaining to pupil participation in a free or reduced price meal program solely for the purpose of disaggregation of academic achievement data if the public agency ensures the following:

(1) The public agency has adopted a policy that allows for the use of individual records for these purposes.

(2) No individual indicators of participation in a free or reduced price meal program are maintained in the permanent record of a pupil if not otherwise allowed by law.

(3) No public release of information regarding individual pupil participation in a free or reduced price meal program is permitted.

(4) All other confidentiality provisions required by law are met.

(c) Notwithstanding subdivision (a), the school districts and county superintendents of schools may release information on the School Lunch Program application only to the local agency that determines eligibility under the Medi-Cal program, if the child is approved for free meals and if the applicant consents to the sharing of information pursuant to Section 49557.2.

(d) Notwithstanding subdivision (a), a public officer or agency may permit the use of individual records pertaining to pupil participation in a free or reduced price meal program for the purpose of identifying ~~individual~~ *schools with a concentration of* pupils who are eligible to participate in a state or federal education program that is based on family wealth or income.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.